## CCRB INVESTIGATIVE RECOMMENDATION

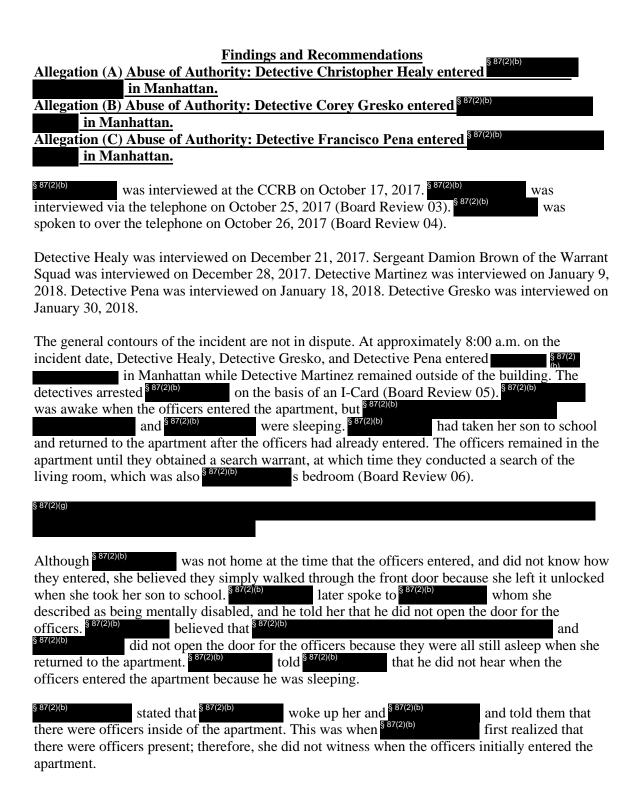
| Investigator:                |                        | Team:  | CCRB Case #:                   |          | Force     |       | Discourt.   |     | U.S.     |
|------------------------------|------------------------|--|--------------------------------|----------|-----------|-------|-------------|-----|----------|
| Karina Herrera               |                        | Squad #2   | 201706078                      | <b>☑</b> | Abuse     |       | O.L.        |     | Injury   |
| T. C. C.                     |                        | X CX   |                                | _        |           | 100   | N. 601      |     | 10.00    |
| Incident Date(s)             |                        | Location of Incident:                                  |                                | P        | recinct:  |       | Mo. SOL     |     | EO SOL   |
| Thursday, 07/20/2017 8:30 AM |                        | § 87(2)(b)   |                                |          | 34        | 1/2   | 20/2019     | 1,  | /20/2019 |
| Date/Time CV Reported        |                        | CV Reported At:  | How CV Reported:               |          | Date/Time | Rece  | ived at CCI | RB  |          |
| Thu, 07/20/2017 11:22 AM     |                        | IAB  | Phone Wed, 07/26/2017 11:10 AM |          |           |       |             |     |          |
| Complainant/Victim           | Type                   | Home Addre   | ess                            |          |           |       |             |     |          |
|                              |                        |  |                                |          |           |       |             |     |          |
|                              |                        |  |                                |          |           |       |             |     |          |
|                              |                        |  |                                |          |           |       |             |     |          |
| Witness(es)                  |                        | Home Addre   | ess                            |          |           |       |             |     |          |
|                              |                        |  |                                |          |           |       |             |     |          |
|                              |                        |  |                                |          |           |       |             |     |          |
|                              |                        |  |                                |          |           |       |             |     |          |
|                              |                        |  |                                |          |           |       |             |     |          |
|                              | GI + II                | T. ID.   | G 1                            |          |           |       |             |     |          |
| Subject Officer(s)           | Shield                 | TaxID  | Command                        |          |           |       |             |     |          |
| 1. DT3 Christopher Healy     | 4546                   | 946490   | WARRSEC                        |          |           |       |             |     |          |
| 2. DT1 Francisco Pena        | 03923                  | 910291   | WARRSEC                        |          |           |       |             |     |          |
| 3. DT3 Corey Gresko          | 1660                   | 932745   | WARRSEC                        |          |           |       |             |     |          |
| Witness Officer(s)           | Shield N               | o Tax No   | Cmd Name                       |          |           |       |             |     |          |
| 1. DT3 Christian Martinez    | 7412                   | 944774   | WARRSEC                        |          |           |       |             |     |          |
| 2. SGT Damion Brown          | 03928                  | 945533   | WARRSEC                        |          |           |       |             |     |          |
| Officer(s)                   | Allegatio              | on   |                                |          | Inve      | stiga | tor Recon   | nme | ndation  |
| A.DT3 Christopher Healy      | Abuse: D<br>§ 87(2)(b) | Detective Christopher He                               | ealy entered in Manhattan.     |          |           |       |             |     |          |
| B.DT3 Corey Gresko           | Abuse: D               | Detective Corey Gresko                                 | entered in Manhattan.          |          |           |       |             |     |          |
| C.DT1 Francisco Pena         | Abuse: D               | Detective Francisco Pena                               | entered<br>in Manhattan.       |          |           |       |             |     |          |
| D.DT1 Francisco Pena         |                        | Detective Francisco Pena<br>tration for Children's Ser | threatened to notify           | ,        |           |       |             |     |          |
| E.DT1 Francisco Pena         | Abuse: D               | Detective Francisco Pena                               | refused to provide l           | nis      |           |       |             |     |          |
| F.DT3 Christopher Healy      | _                      | Detective Christopher He                               | ealy searched in Manhattan.    |          |           |       |             |     |          |

## **Case Summary**

On July 20, 2017, the IAB Command Center called an individual, who wished to remain anonymous, who filed the following complaint as a reporting non-witness of the incident. The

original log # 87(2)(b) was forwarded to the Chief of Department and the following was referred to the CCRB via log #§87(2)(b) At approximately 8:30 a.m. on July 20, 2017, returned to her apartment, which in Manhattan, from dropping off her son at school. was located at lived in the four-bedroom apartment with § 87(2)(b) the owner of the her boyfriend, § 87(2)(b) her other roommate, and her three children, including her minor daughters was visiting from Florida at the time. Although \$87(2)(b) friend. were in a romantic relationship, they each had their own room within the apartment; therefore, § 87(2)(b) lived with her children in her bedroom while §87(2)(b) lived by himself in the living room. Upon entering the apartment, § 87(2)(b) saw four plainclothes officers, Detective Christopher Healy, Detective Christian Martinez, Detective Corey Gresko, and Detective Francisco Pena of the Warrant Squad, with \$87(2)(6) who was in handcuffs (Allegation A: Abuse of Authority, § 87(2)(9) (Allegation B: Abuse of Authority, \$87(2)(9) (Allegation C: Abuse of Authority, asked the detectives what had happened. Detective Pena exited \$ 87(2)(0) s room and spoke with Spanish. § 87(2)(b) asked Detective Pena if the detectives had an order to enter the home. Detective Pena allegedly responded, "Do you want me to call ACS?" (Allegation D: Abuse of asked Detective Pena twice for his name and he allegedly refused to provide it both times (Allegation E: Abuse of Authority, At approximately 9:43 a.m., two unidentified uniformed officers briefly responded to a 911 call about the incident location (Board Review 01). Detective Pena later asked [867(2)(b)] called the police. told Detective Pena she did not call the police. Detective Pena that he was going to call ACS once he verified who called 911 (within Allegation D: Abuse of Authority, [\$87(2)(9) knowledge, no call was To placed to ACS by officers in regards to this incident. Once a search warrant was obtained by Detective Healy, §87(2)(b) s room was searched (Allegation F: Abuse of Authority, §87(2)(9) The officers were inside of the apartment until approximately 7:30 p.m. The officers did not search anywhere beyond §87(2)(b) s room. was the only individual arrested inside of the apartment. He was charged with § 87(2)(b) (Board Review 02). No video footage was found regarding this incident.

Page 2

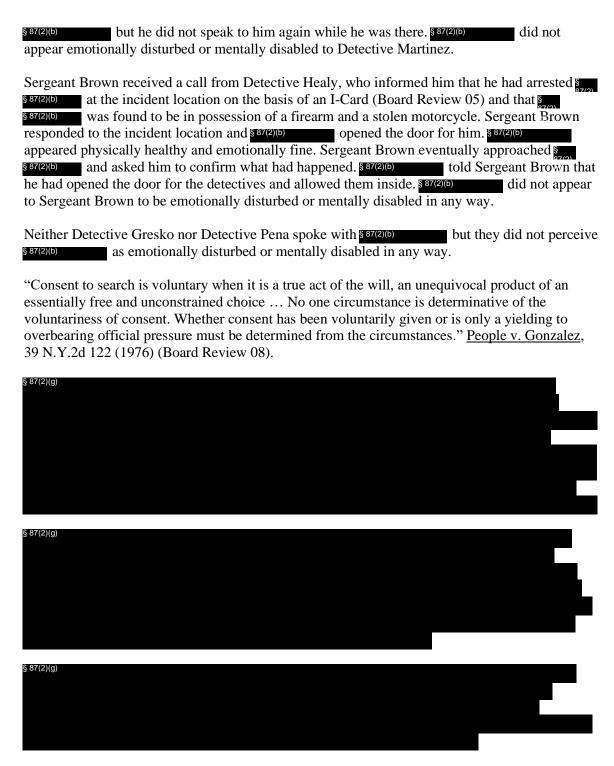


Page 3

| was contacted several times in order to provide a statement in regards to what occurred (Board Review 04). However, every time \$87(2)(b) answered his phone, he was unable to provide coherent responses to the basic questions posed to him. When asked questions about the incident, \$87(2)(b) as responses consisted of several unrelated responses about his hobby as a chef and offering to make food for the investigator. The undersigned investigator informed \$87(2)(b) about the CCRB and attempted to schedule an interview with him, but did not seem to comprehend the information shared with him. Based on these telephone conversations, \$87(2)(b) are was unable to provide any articulated answers to the investigation. On November 30, 2017, CCRB investigators went to the incident location in an attempt to speak to \$87(2)(b) and in person, but he was not present when they arrived.  |
|--|
| The CCRB was unable to obtain statements from \$87(2)(b) and \$87(2)(b) because their attorneys advised them to not cooperate. The CCRB was unable to obtain contact information for or her parents.   |
| Detective Healy, Detective Gresko, and Detective Pena provided consistent accounts of the initial entry. All of them stated that upon arriving, Detective Healy knocked on the front door and popened. At the time, Detective Healy had an I-Card with probable cause to arrest (Board Review 05), who was wanted for a gun-point robbery of a motorcycle (Board Review 07). Detective Healy stated that he greeted \$87(2)(b) and identified himself as part of the police department. Detective Healy showed \$87(2)(b) and asked if he recognized him. \$87(2)(b) told Detective Healy that he knew the gentleman in the photograph and he confirmed that \$87(2)(b) lived in that apartment. Detective Healy told \$87(2)(b) that he needed to speak to \$87(2)(b) solved in that apartment. Detective Healy told \$87(2)(b) that he needed to speak to \$87(2)(b) waved his arm in a circling motion towards \$87(2)(b) to she directly solved the stolen motorcycle and guns in plainview in the room that \$87(2)(b) had directed them to and in which \$87(2)(b) was sleeping.   |
| Detective Pena stated that immediately after \$87(2)(b) saw the photograph, he pointed to a room in the back of the apartment and said that \$87(2)(b) was over there. Detective Gresko stated that he was standing by the building's staircase outside of the apartment and saw \$37(2)(b) make a hand motion, but he did not know where the motion was directed to.  |
| After arresting \$87(2)(6) Detective Healy approached \$87(2)(6) and spoke with him.  \$87(2)(6) provided his name and told Detective Healy that his name was on the lease of the apartment and that he rented out the additional rooms to other individuals. Detective Healy stated that he did not experience any difficulties in communicating with \$87(2)(6) \$87(2) |
| Detective Martinez, who had remained outside while the other three officers had entered the  |

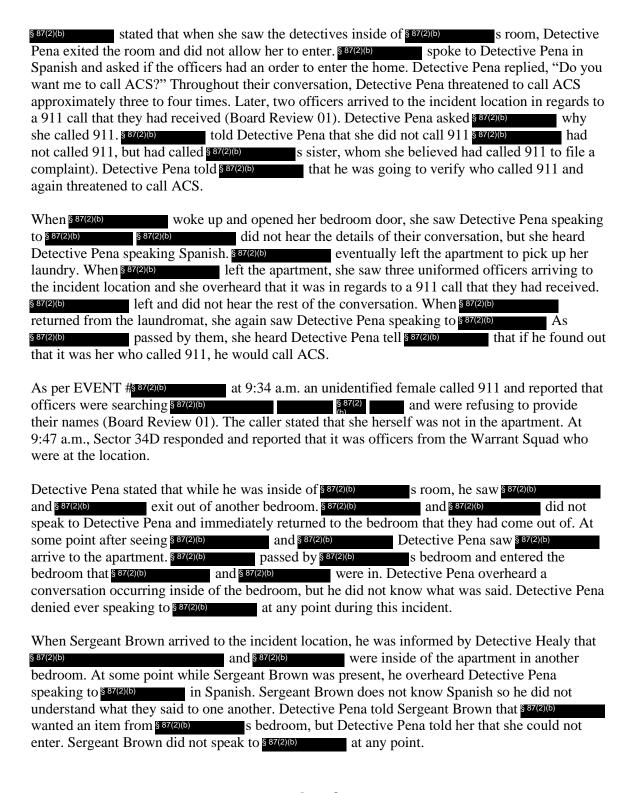
Detective Martinez, who had remained outside while the other three officers had entered the building, received a radio transmission from one of the detectives who had entered the apartment and was instructed to come upstairs. Upon entering the apartment, Detective Martinez greeted

Page 4

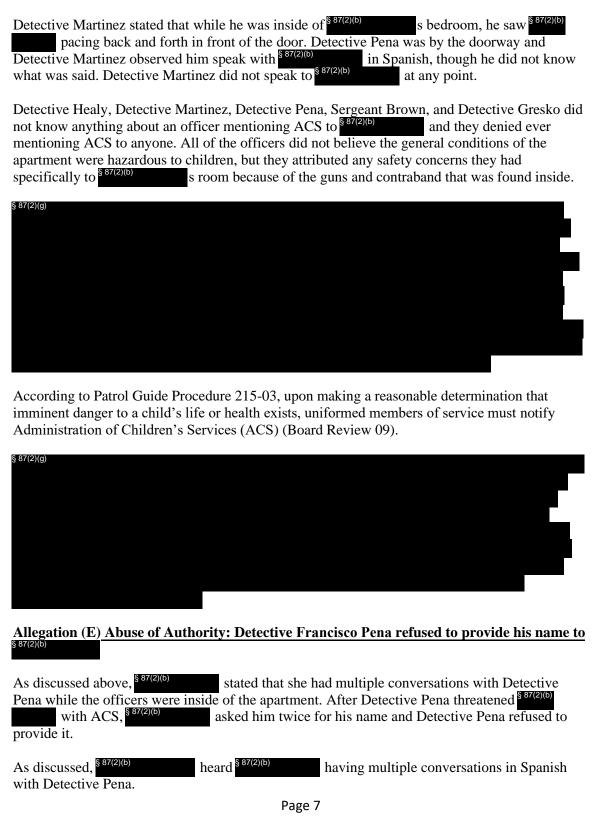


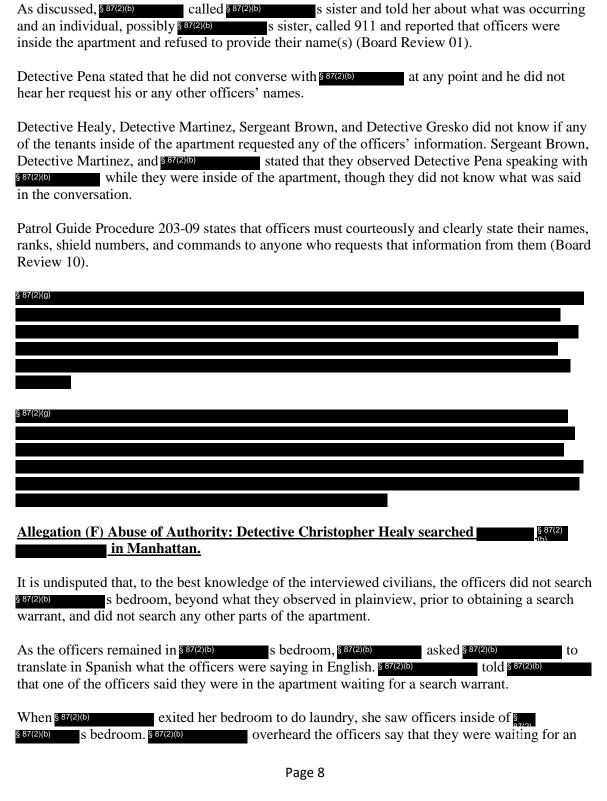
Allegation (D) Abuse of Authority: Detective Francisco Pena threatened to notify Administration for Children's Services.

Page 5



Page 6





order so they could "touch" items. Approximately two hours later, more officers arrived to the apartment and that was when the officers began "touching" the items.

When Detective Healy arrested \$57(2)(b) he was instructed by a lieutenant to obtain a search warrant from the courthouse. Detective Healy explained to the Assistant District Attorneys what he and the other detectives had found inside of the apartment and the allegations that were made against \$57(2)(b) A search warrant was issued to Detective Healy for the apartment because of the firearms and the stolen motorcycle that were observed in plainview (Board Review 06). Detective Healy left the courthouse, returned to the incident location, conducted a search of \$57(2)(b) s bedroom, and found alleged cocaine (Board Review 11).

Search Warrant \$57(2)(b) was issued by \$57(2)(b) (Board Review 06). Detective Healy appeared before the court and stated that there was reasonable cause to believe that certain property at the incident location was used in the commission of a crime (specifically, \$57(2)(b) ).

\$57(2)(b) \$57(2)(c) \$57(2)(

## Civilian and Officer CCRB Histories

- This is the first CCRB complaint in which \$87(2)(b) and \$87(2)(b) have been a party respectively (Board Review 12) (Board Review 13).
- This is the first CCRB case involving the phone number provided by the reporting non-witness of the incident (Board Review 14).
- Detective Healy has been a member of service for ten years and has been a subject in two CCRB complaints and five allegations, none of which were substantiated [\$87(2)(9)]
- Detective Pena has been a member of service for thirty years and has been a subject in eleven CCRB complaints and fifteen allegations, of which four were substantiated:
  - 9802591 involved substantiated allegations of Force (other) and person searched against Detective Pena. The Board recommended charges and he was found Not Guilty.
  - 201410337 involved a substantiated allegation of premises entered and/or searched against Detective Pena. The Board recommended charges and the NYPD imposed a forfeiture of five vacation days.
  - 201507343 involved a substantiated allegation of premises entered and/or searched against Detective Pena. The Board recommended Command Discipline B and the NYPD imposed formalized training.
  - Detective Pena's CCRB history involves four allegations of premises entered and/or searched, two of which were substantiated, one was withdrawn, and the other remains open, and one allegation of refusal to provide name and shield number, which was unsubstantiated.

Page 9

- Detective Gresko has been a member of service for fourteen years and has been a subject in nine CCRB complaints and nineteen allegations, of which two were substantiated:
  - 201507343 involved a substantiated allegation of premises entered and/or searched against Detective Gresko. The Board recommended Command Discipline B and the NYPD imposed formalized training.
  - 201608013 involved a substantiated allegation of Discourtesy (word) against Detective Gresko. The Board recommended Command Discipline A and the NYPD has not yet imposed discipline.
  - O Detective Gresko's CCRB history involves six premises entered and/or searched allegations, two of which were unsubstantiated, one of which was exonerated, one which was substantiated, one which was withdrawn, and another which remains open.

## Mediation, Civil and Criminal Histories

| • This case v         | vas not suitable for med | iation.                              |                   |
|-----------------------|--------------------------|--------------------------------------|-------------------|
| • [§ 87(2)(b)] [§§ 86 | (1)(3)&(4)] [§ 87(2)(c)] |                                      |                   |
|                       |                          |                                      |                   |
|                       |                          |                                      |                   |
| _                     |                          |                                      |                   |
|                       |                          |                                      |                   |
|                       |                          |                                      |                   |
| • According           | to the New York City's   | Comptroller's Office, a Notice of Cl | aim regarding thi |
| incident ha           | s not been filed as of A | pril 13, 2018 (Board Review 18).     |                   |
|                       |                          |                                      |                   |
|                       |                          |                                      |                   |
| Squad No.:            | 2                        |                                      |                   |
| Squau No              |                          |                                      |                   |
|                       |                          |                                      |                   |
| Investigator:         |                          | <u> </u>                             |                   |
|                       | Signature                | Print Title & Name                   | Date              |
|                       |                          |                                      |                   |
| Squad Leader:         |                          |                                      |                   |
| Squau Leauer          | Signature                | Print Title & Name                   | Date              |
|                       | Signature                | Time Title & Ivalie                  | Bute              |
|                       |                          |                                      |                   |
| Reviewer:             |                          |                                      |                   |
|                       | Signature                | Print Title & Name                   | Date              |

Page 10